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January 13, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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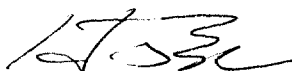
Re: Declaration Under Penalty of Perjury
W.T. Docket No. 96-41
New York, New York

Dear Mr. Caton:

Transmitted herewith on behalf of Liberty Cable Co., Inc., is an original and five (5) copies of a Declaration Under Penalty of Perjury. This document is directed to the attention of Administrative Law Judge Richard L. Sippel.

Should any questions arise in connection with this matter, kindly communicate directly with the undersigned.

Respectfully submitted,


Howard J. Barr

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JAN 13 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

| | | |
|---------------------------------|---|------------------------|
| In re Applications of |) | |
| |) | W.T. Docket NO. 96-41 |
| LIBERTY CABLE CO., INC. |) | File Nos.: |
| |) | 708777 WNTT370 |
| For Private Operational Fixed |) | 708778, 713296 WNTM210 |
| Microwave Service Authorization |) | 708779 WNTM385 |
| and Modifications |) | 708780 WNTT555 |
| |) | 708781, 709426 |
| New York, New York |) | 711937 WNTM212 |
| |) | 709332 (New) |
| |) | 712203 WNTW782 |
| |) | 712218 WNTY584 |
| |) | 712219 WNTY605 |
| |) | 713295 WNTX889 |
| |) | 713300 (New) |
| |) | 717325 (New) |

To: Administrative Law Judge Richard L. Sippel

DECLARATION UNDER PENALTY OF PERJURY

I, Howard J. Barr depose and state as follows:

1. I am a partner with the law firm of Pepper & Corazzini, L.L.P., with offices at 1776 K Street, N.W., Washington, D.C. 20006.

2. On or about April 9, 1996, via a memorandum from Eliot Spitzer of the law firm of Constantine & Partners to Mike Lehmkuhl, an associate of this law firm, we were provided with copies of certain requests for production of documents from the FCC and from Time Warner. A copy of this memorandum is attached as Exhibit One. Therein, we were requested to review the discovery requests, particularly the FCC's request number 10, and to respond to Constantine & Partners by Thursday, April 11, 1996 as its responses and document production were due on April 15 and 16, 1996.

3. The sole file/client number for Liberty Cable is number 1808. All work for Liberty Cable is conducted and billed under the 1808 client/file number and all documents pertaining to the Liberty account and maintained by Pepper & Corazzini are maintained in the 1808 files.

4. Mike Lehmkuhl, David Jakubowski, a paralegal of this law firm, and to a lesser extent, myself, searched through the firm's voluminous Liberty Cable 1808 client files and billing re-

cords in an effort to locate documents possibly relevant to the document requests. Liberty's 1808 files, in total, consume in excess of six (6) file drawers, including multiple correspondence files, pleading files, application files, authorization files and copyright files. At the time of the document production, Liberty's 1808 correspondence files alone consisted of nineteen (19) files of documents, each file being approximately two (2) inches or more in width.

5. The search consisted of a screening of the 1808 files for responsiveness and was conducted under my supervision. Messrs. Lehmkuhl and Jakubowski were instructed to review the document production requests prior to commencing their responsiveness search and to broadly construe those requests in their search for responsive documents, such that all documents possibly fitting within the scope of the requests would be provided to Constantine & Partners. Messrs. Lehmkuhl and Jakubowski were instructed to examine each document in the files and to individually consider that document's responsiveness to the document requests.

6. Documents appearing to fit within the scope of the requests were marked with a Post-it Tape Flag. Once a file was completely reviewed, it was sent to Kevin Langley, manager of our services department, for copying. Mr. Langley was instructed to copy all documents (and any attachments thereto) marked with a Post-it Tape Flag. The items, once copied, were boxed and sent to Eliot Spitzer for Constantine & Partners' further review and production to the requesting parties. Again, the idea was to cast a wide net, on the assumption that Constantine & Partners would further winnow our production.

7. I am confident that each of the individuals at Pepper & Corazzini that was associated with the document production used his best efforts to identify and produce any and all documents he reviewed that could possibly be deemed to be responsive to the discovery requests. Any failure on the part of this law firm to produce a document responsive to the discovery requests was unintentional and could only have arisen through inadvertence somewhere in the chain of production.

I declare under penalty of perjury that the foregoing is true and correct.


Howard J. Barr

Date: 11/13/97

PRIVILEGED & CONFIDENTIAL
ATTORNEY WORK PRODUCT


CONSTANTINE & PARTNERS

MEMORANDUM

VIA FACSIMILE

Date: April 9, 1996

To: Michael Lehmkuhl, Esq.

From: Eliot Spitzer, Esq. 

Re: *Document Request and Interrogatories from FCC and Time Warner*

Please review the attached discovery demands as soon as possible and let us know if you have any comments with respect to any responsive answers or documents. In particular, please look at document request number 10 in the FCC document demand. Since our responses and document production are due on April 15 and 16, we appreciate your comments by Thursday, April 11, 1996.

ES/YC/aes
Encls.